courage all but cases which they think worth arguing. This. if restrained by a wary anxiety to see any real chance of doubt and then allow full argument, must go far in weeding out from the rest really hopeless appeals, and so in adding to the speed and popularity of litigation. To give an instance of the new method, it is said that a plaintiff, an attorney, recently appeared *pro se* moving for a new trial of a libel action on the ground of misdirection. A bill had been sent him for an account which he had paid, and it had been opened by a clerk,— that was his libel. After he had argued five minutes, Lord Esher leaned foward and this is the substance of his remarks :—

"Mr. ———, if your complaint had been demurred to, the demurrer would have been sustained; if, at the trial, a motion for a nonsuit had been made it should have been granted ; failing that, the jury ought to have found against you, as they did." Then, leaning back again, he added, after a moment : "But I'm open to conviction. I'm open to conviction."

In some hands this might do injustice. Even if the plaintiff had had a case for argument such a greeting might have diminished the force of his logic.

---

CAN A MURDERER ACQUIRE A TITLE BY HIS CRIME?— In 4 H. L. R. 394 the opinion was expressed that one who murdered another in order to inherit the latter's property acquired the legal title, but should be treated as a constructive trustee for those who suffered by his crime. That is in accordance with well-known equitable principles and reaches a just result. It would prevent the murderer from profiting by his crime, but would protect a purchaser for value without notice. Hitherto this view, while not adopted by the courts, has not been distinctly rejected by them. They have reached the same practical result, but by means which seem unjustifiable. In *Riggs* v. *Palmer*, 115 N. Y. 506, where the controversy was between the criminal and the representatives of the murdered man, the court read into the statute of wills a revocation clause. That would seem to carry judical legislation too far. No considerations of humanity and natural justice can authorize a court to read an exception into a statute which is plain and definite in its terms. *Shellenberger* v. *Ransom* (Nebraska, 1891), 47 N. W. R. 700, followed the New York case and held that a purchaser from a murderer took nothing, because the murderer had nothing to give. Here an exception was read into the statute of descent, a course open to the same criticism as that just offered upon *Riggs* v. *Palmer*. In June, 1894, the Nebraska court reviewed their decision (59 N. W. R. 935), and concluded to go to the opposite extreme. They decide, and correctly it would seem, that the purchaser from the murderer acquires a legal title. But they go on and hold that he gets not only the legal title, but the beneficial interest as well, although he took with notice of the murder. This is a result which is not only "undesirable," as the court say, but in violation of the plain equitable principle that one who acquires a legal title by fraud or other unconscionable conduct shall be treated as a constructive trustee for those whom he has wronged. The court seems to feel bound by the terms of the statute of descent. But that misconception is probably, as pointed out in 4. H. L. R. 394, one of the results of the fusion of law and equity.

It may be worth while to observe that the civil law, to which frequent reference is made in these cases, does not treat the will as revoked or the

heir as disinherited by his crime, as several of the judges appear to think. On the contrary, the legal title passes to the criminal and is thereafter taken from him. *Ereptio propter indignitatem* is a case not of revocation, but of restitution. See Windscheid, Pandekten III. § 669 & n. 1; lex 7, § 4, *D. de bonis damnatorun* (48, 20); *D.* 34, 9, *de his quae ut indignis auferuntur;* Maynz, Cours, v. 3, § 482.

---

PARTY WALLS; QUASI CONTRACTUAL RIGHTS OF ADJOINING OWNERS. —In the recent case of *Walker et al.* v. *Stetson*, 38 N. E. R. 18, the Supreme Court of Massachusetts has made an interesting and important decision on the subject of party walls. The plaintiff had both added to the height of an ancient party wall between his estate and that of the defendant, and had, also, thickened and strengthened the part which was on his own land, in order to sustain a large building he was erecting. Sometime after this the defendant had also begun building operations, and, while thus engaged, had projected his beams into the wall, but not beyond his own side of the division line. There was no controversy on the part of the defendant as to his liability under a party wall agreement to pay for using the height added, but he contended that the court would be going too far in holding that the other additions became part of the wall, and that the defendant was, therefore, liable for a portion of the cost, though he had used the party wall no further than his rights allowed.

The plaintiff, on the other hand, maintained that, as the old wall, if carried up as it was, would not have conformed to the building law in force in the city of Boston, and as the defendant would, therefore, have been compelled to thicken it, it was only just and equitable that he should pay some proportion of an outlay from which he had derived undoubted benefit.

The court refused, nevertheless, to allow such compensation, or to enjoin the defendant from making any use of the wall, thus thickened and strengthened, to support the building which he had erected.

This decision, although undoubtedly a conservative one, appears on the whole a thoroughly sound one. It is, certainly, very hard to see any ground of legal liability, on which the defendant could have been compelled to contribute, since, throughout, he did nothing but what he had a perfect right to do,— namely, to use his own. Indeed the only chance under the circumstances that the plaintiff had, was to have the inspector of buildings stop the work as contrary to city regulations, and thus, by indirect means, to bring the defendant to terms,— a course which was pursued with success in a private controversy last winter in Boston. But, although this case, apparently, does not recommend itself to architects and builders (see American Architect, cited in 27 Chicago Legal News, p. 12) as fair or politic, it seems difficult to perceive how it could well have been otherwise decided after the erection was once completed.

---

RIPARIAN RIGHTS.— Questions concerning the rights of riparian owners in cases of alluvion and reliction, although not unimportant in this part of the country, occur more frequently and create more discussion in the west. While our Massachusetts' judges are laying down working rules as to the equitable division of mud flats, judges in Missouri and Nebraska